

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GEORGE WESLEY MORGAN and)	
PEGGY KATHRYNE MORGAN,)	
)	CIVIL ACTION FILE NO.:
Plaintiffs,)	
v.)	Superior Court of Gwinnett County
)	Civil Action No. 21-C-05618-S5
BELK, INC. (DE),)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Belk, Inc., pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby gives notice of removal of this action to the United States District Court for the Northern District of Georgia, Atlanta Division. As grounds for this removal, Defendant shows as follows:

1.

On July 29, 2021, Plaintiffs George Wesley Morgan and Peggy Kathryne Morgan filed suit against Belk, Inc. in the State Court of Gwinnett County, Georgia, which is a county within the Atlanta Division of this Court. The lawsuit is styled as above and numbered Civil Action Number 21-C-05618-S5 in Gwinnett County State Court and attached hereto as Exhibit “A”.

2.

Plaintiffs are citizens and residents of Bartow County, Georgia.

3.

Prior to suit being filed, Plaintiffs submitted a demand claiming that the medical expenses to date are, or were at that time, March 4, 2021, in excess of \$245,000 and, therefore, the amount in controversy exceeds the threshold of \$75,000 for removal.

4.

Defendant timely filed an Answer.

5.

Defendant is a foreign corporation organized under the laws of the State of Delaware, with its principal place of business in the State of North Carolina, as shown by the entity's corporate entry with the Georgia Secretary of State, a copy of which is attached as Exhibit "B."

6.

Defendant's citizenship established in the State of Delaware and the State of North Carolina for diversity of citizenship purposes. See 28 U.S.C. § 1332(c) (providing that a corporation is deemed to be a citizen of every state in which it

was incorporated, as well as the state in which it maintains its principal place of business).

7.

On August 24, 2021, Defendant served interrogatories on Plaintiffs, requesting, among other things, that Plaintiffs identify their residence and their amount of claimed damages.

8.

A copy of all process and pleadings filed in the State Court of Gwinnett County are attached hereto as Exhibit “C”.

9.

The Court has diversity jurisdiction over this suit under 28 U.S.C. § 1332 because: (1) Plaintiffs and Defendant are citizens of different states; and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

10.

Defendant files this Notice of Removal within the time required by 28 U.S.C. §1446(b)(3) (providing “if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading,

motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable”).

13.

Attached hereto as Exhibit “D” is a copy of the Notice of Filing Removal to be filed by Defendant in the State Court of Gwinnett County, Georgia.

WHEREFORE, Defendant prays that the State Court of Gwinnett County, State of Georgia, proceed no further and that the suit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 30th day of August 2021.

Respectfully submitted,

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Pamela N. Lee

By: _____
Pamela Newsom Lee
Georgia State Bar No. 198981
Rachel Wilson Mathews
Georgia State Bar No. 537964
Attorneys for Defendant, Belk, Inc.

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Pamela.lee@swiftcurrie.com
Rachel.mathews@swiftcurrie.com

CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D) of the Northern District of Georgia, I hereby certify that this document was prepared in Times New Roman font, 14 point, pursuant to LR 5.1(C).

This 30th day of August 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

By: /s/ *Pamela N. Lee*
Pamela Newsom Lee
Georgia State Bar No. 198981
Rachel Wilson Mathews
Georgia State Bar No. 537964
Attorneys for Defendant, Belk, Inc.

The Peachtree, Suite 300
1355 Peachtree Street, N.E.
Atlanta, Georgia 30309-3231
Telephone: (404) 874-8800
Facsimile: (404) 888-6199
Pamela.lee@swiftcurrie.com
Rachel.mathews@swiftcurrie.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following either via the CM/ECF system which will send electronic notification to counsel:

Lance T. McCoy
The McCoy Law Firm, LLC
775 West Avenue, Suite E
Cartersville, Georgia 30120
lmccoy@mccoylawfirm.biz

This 30th day of August 2021.

SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Pamela N. Lee

By:

Pamela Newsom Lee
Georgia State Bar No. 198981
Rachel Wilson Mathews
Georgia State Bar No. 537964
Attorneys for Defendant, Belk, Inc.

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